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— **Yvonne Tew**



## Professor Yvonne Tew

### Comparing Constitutions Globally

Georgetown Law Professor and comparative constitutional law scholar Yvonne Tew grew up in a country with a nascent constitution (Malaysia), began her legal studies in a country with an “unwritten” one (the United Kingdom) and deepened her interest in constitutionalism in a country with perhaps the most revered one (the United States).

She became fascinated by constitutions: how they’re designed, how they’re applied, and how they impact the day-to-day lives of a nation’s citizens. And today much of her scholarly work focuses on whether and how constitutional democracies can be preserved—an issue she says has emerged as one of the most salient of our time.

“We are all fragile democracies now,” Tew says. “All democracies, whether established or emerging, carry the seeds of fragility in their constitutional order. So the question then becomes, ‘How does one ensure that constitutionalism in any of these contexts endures?’”

Tew’s well-received first book, “Constitutional Statecraft in Asian Courts,” examines that question as to “aspiring but deeply fragile” Asian democracies, with a focus on Malaysia and Singapore, specifically exploring the role of what is commonly considered a government’s weakest branch—the judiciary. The text, published by Oxford University Press in 2020, examines how courts in those two countries and in politically similar contexts in the region can and should engage in constitutional state-building, and the strategies and methods they can apply to safeguard a nation’s constitutional framework.

She chose to zero in on contemporary Malaysia and Singapore because they’re prime examples of two kinds of political experiences commonly seen in emerging democracies in Asia: a one-party regime controlled by a single political party and a fragile democracy only recently emerging from dominant party rule. Traditionally, courts in such tenuous democracies have adopted a restrained and deferential relationship to more powerful political institutions and have sought to avoid political backlash, Tew explains. Her book urges more boldness.

“I really wanted to explore how courts can play a more assertive role and exercise more robust judicial review to not only protect, but also construct, democratic constitutionalism in what are obviously fraught and challenging political circumstances,” she says.

For example, courts might assert a power to review the constitutionality of amendments to guard against anti-democratic measures adopted by the dominant political branches. Or courts could aim for a more purposive form of constitutional interpretation, rather than a more narrow or formulaic one. Or they could take a proportionality approach, balancing individual rights against government interests.

#### Recent Scholarship

“Constitutional Statecraft in Asian Courts” (Oxford University Press, 2020)

“Strategic Judicial Empowerment” (American Journal of Comparative Law, forthcoming)

#### Recent Initiatives

Georgetown Law’s Fall 2021 Faculty Representative at the Center for Transnational Legal Studies in London, a unique global partnership in legal education that encompasses students and faculty from law schools across the world.



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**Professor Yvonne Tew** with students in her comparative constitutional law class in 2019.

“Constitutional Statecraft in Asian Courts” focuses on the Southeast Asian democracies of Malaysia and Singapore, but also has relevance for other evolving democracies throughout Asia and the Global South, which have been underexplored within comparative constitutional studies.

“So many countries across Asia are also grappling with similar challenges,” she says, including “colonial legacies, histories of authoritarian rule and societies polarized by race, religion and national identity.”

Tew’s current research expands on themes developed in her book. She is working on an article to be published in the peer-reviewed *American Journal of Comparative Law*, “Strategic Judicial Empowerment,” which examines how courts work to establish and enhance their own institutional power vis-à-vis other branches of government.

This new project looks at a broad expanse of countries across a variety of geographical, cultural and political settings, including Pakistan, Malawi and the United Kingdom, considering how courts might be able to establish their own power and the judicial strategies they use to do that.

Tew has taken her expertise beyond the scholarly realm, working on constitutional reform in developing and emerging democracies throughout the world. She’s worked with the U.S. State Department to lead a constitutional reform workshop for Myanmar government leaders, legislators, policymakers and military leaders on amending or replacing Myanmar’s constitution. She’s also provided expert advice at the United Nations and other institutions on constitutional tools to strengthen democratic and justice institutions, as well as to officials in various contexts globally on contemporary constitutional development issues.

“I love writing, I love teaching, but I’ve always also been deeply interested in how to construct constitutionalism as well as how to operationalize it,” she says. “It’s not just about a piece of paper; it’s about how constitutional practice plays out.”

Tew’s last trip before the COVID-19 pandemic curtailed international travel was to London in February 2020 to deliver the annual lecture at the Center for Transnational Legal Studies, where she discussed her then-forthcoming book. She’ll return there this fall as Georgetown’s faculty representative at CTLS, to teach comparative constitutional law and co-lead the center’s Transnational Law Colloquium.

As a scholar of comparative constitutional studies, she is especially energized by teaching at Georgetown Law, an institution that she says emphasizes global perspectives and attracts students with diverse backgrounds.

“In a world that is ever more globally interconnected and yet sometimes appears to be increasingly polarized at the same time,” Tew says, “I find it profoundly encouraging to be teaching law students who are intelligent, thoughtful, and keenly interested in being globally minded and that are actively looking to push beyond familiar boundaries.”